

**Green, LindaE**

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**From:** Levine, Scott on behalf of OIG FOIA  
**Sent:** Tuesday, May 19, 2015 3:04 PM  
**To:** FOIA HQ  
**Subject:** FW: FOIA Request

For OIG.

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**From:** Jeff Ruch  
**Sent:** Tuesday, May 12, 2015 10:56:38 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** OIG FOIA  
**Subject:** FOIA Request



## Public Employees for Environmental Responsibility

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May 12, 2015

FOIA Officer  
EPA OIG  
1200 Pennsylvania Avenue, NW  
Mail Code 2411T  
Washington, DC 20460-0001

[OIG\\_FOIA@epa.gov](mailto:OIG_FOIA@epa.gov)

### **RE: FREEDOM OF INFORMATION ACT REQUEST**

#### **VIA U.S. MAIL, FAX & EMAIL**

Dear FOIA Officer:

In 2015, the U.S. Environmental Protection Agency (EPA-OIG) established EPA OIG Hotline Number 2015-086 to document a final review of allegations regarding Science Misconduct in Carbon Monoxide Exposure Studies. This review included two previous Hotline Numbers 2013-159 and 2014-152. The EPA-OIG then forwarded the results of this review to the EPA Science Integrity Officer.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests records concerning this matter. Specifically, we request records containing the following:

1. A copy of the above-referenced review for Hotline Number 2015-086, together with any supporting documents, exhibits or correspondence (including email) concerning it;
2. A copy of the above-referenced review for Hotline Numbers 2013-159 and 2014-152, together with any supporting documents, exhibits or correspondence (including email) concerning them; and
3. Copies of any transmittals, emails or meeting notes concerning the disposition of any of the above-referenced reviews, including referral to the Science Integrity Officer.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve . . . . All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA-OIG needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552(a)(4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA-OIG and/or EPA employees.

*2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The requested material reflects how complaints concerning abuse of human subjects, scientific fraud and other research misconduct in key studies used to establish EPA health limits for exposure to carbon monoxide (CO) were handled by EPA-OIG. These materials would help the public understand how such serious allegations are investigated and under what standard of review. As such, the requested records are the most meaningful documents that could be requested on this topic.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

The requested records concern the extent to which significant EPA health standards may be based on flawed science and studies that involved unethical endangerment of its human subjects. The records also reveal the speed and seriousness of the review undertaken by EPA-OIG in its oversight capacity.

The general public has a keen interest in any factor bearing on –

- Public safety, especially with respect to CO, one of the most ubiquitous and deadly pollutants on the planet;
- The tolerance by EPA for scientific fraud or other research misconduct;
- The rigor and timeliness with which significant, documented allegations are handled by EPA-OIG; and
- The existence or lack of quality controls used to screen scientific studies EPA uses for regulatory purposes.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on our web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in PEER's newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these techniques, PEER has a long track record of generating media and public attention concerning the operations of federal agencies, including EPA-OIG. Moreover, by its own reports concerning ethical lapses by others we presume that the EPA-OIG would concede the public interest of this request's subject matter.

*4. The disclosure must contribute "significantly" to public understanding of government operations or activities.*

The requested material will significantly inform the general public about whether reports of scientific error and misconduct are actually investigated by the responsible entity with jurisdiction to do so – EPA-OIG. Presumably the material will provide the public with explicit and easily understandable information about precisely how EPA-OIG follows up on credible, detailed violations that have direct bearing on public health and on what basis EPA-OIG makes its decisions concerning disposition of these matters.

*5. The extent to which disclosure will serve the requestor's commercial interest.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

*6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.*

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

**Jeff Ruch**  
**Executive Director**